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DEPARTMENT OF COMMERCE
International Trade Administration
[C-570-976]

Galvanized Steel Wire from the People's Republic of China: Final Affirmative Countervailing Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of galvanized steel wire (galvanized wire) from the People's Republic of China (the PRC). For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: [Insert Date of Publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: Nicholas Czajkowski or David Lindgren, AD/CVD Operations, Office 6, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: 202-482-1395 or 202-482-3870, respectively.

SUPPLEMENTARY INFORMATION:

Background

The U.S. producers that filed the petition for this investigation are Davis Wire Corporation, Johnstown Wire Technologies, Inc., Mid-South Wire Company, Inc., National Standard, LLC, and Oklahoma Steel & Wire Company, Inc. (collectively, Petitioners). This investigation covers 40 programs. The mandatory respondents in this investigation are: (1) M&M Industries Co. Ltd. (M&M); (2) Shandong Hualing Hardware and Tool Co., Ltd. (Hualing); (3) Shanghai Bao Zhang Industry Co. Ltd. and its cross-owned affiliated companies Anhui Bao Zhang Metal Products Co., Ltd. and Shanghai Li Chao Industry Co., Ltd.

(collectively, the Bao Zhang Companies); and, (4) Tianjin Huayuan Metal Wire Products Co., Ltd. and its cross-owned affiliated companies Tianjin Tianxin Metal Products Co., Ltd. and Tianjin Mei Jia Hua Trade Co., Ltd. (collectively, the Huayuan Companies).

Period of Investigation

The period of investigation for which we are measuring subsidies is January 1, 2010, through December 31, 2010.

Case History

The following events have occurred since the Department published the Preliminary Determination¹ on September 6, 2011.² The Huayuan Companies filed a ministerial error allegation on September 7, 2011, and, on September 12, 2011, Petitioners filed responses to the Huayuan Companies' allegation. On September 29, 2011, the Department released its analysis of the ministerial error allegation, finding that no ministerial errors were made in the Preliminary Determination. Petitioners, the Huayuan Companies and the Government of the People's Republic of China (GOC) filed requests for a hearing on September 14, 22 and October 6, 2011, respectively, and, on January 30, 2012, all three parties withdrew their requests for a hearing.

Between September 15 and October 21, 2011, the GOC, Petitioners, the Bao Zhang Companies and the Huayuan Companies filed factual information submissions. Except for the Bao Zhang Companies' October 21, 2011 wire rod benchmark submission, all were rejected by the Department as untimely under 19 CFR 351.301(c). The Department informed Petitioners they could re-file certain portions of their rejected material, which they did on October 31, 2011.

¹ See Galvanized Steel Wire From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination, 76 FR 55031 (September 6, 2011) (Preliminary Determination).

² Public versions of all business proprietary documents and all public documents are on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building.

On September 19, 2011, the Department issued supplemental questionnaires to the GOC, the Bao Zhang Companies, and the Huayuan Companies, which, in turn, submitted responses between September 28 and October 3, 2011. On October 7, 2011, the Department issued additional supplemental questionnaires to the Bao Zhang Companies and the GOC, with responses filed on October 13 and 14, 2011, respectively. Moreover, on October 14, 2011, Department issued a supplemental questionnaire to the Huayuan Companies, which filed a response on October 24, 2011.

Between October 21 and November 2, 2011, the Department issued verification outlines to the GOC, the Bao Zhang Companies, the Huayuan Companies and M&M. On October 24, 2011, Petitioners filed pre-verification comments. The Department conducted verification of the Bao Zhang Companies and the GOC from October 31 to November 8, 2011. Although scheduled for verification, the Huayuan Companies and M&M verbally informed the Department on November 3, 2011 that they would not participate in verification; a letter filed on November 9, 2011 stated the reasons for their decision not to participate. The Bao Zhang Companies filed minor corrections on November 4, 2011, and on November 10 and 15, 2011, the Bao Zhang Companies and the GOC, respectively, timely filed verification exhibits. The Department issued verification reports for the Bao Zhang Companies and the GOC on December 22, 2011.

With respect to scope issues, on November 2, 2011, Qingdao Ant Hardware Manufacturing Co., Ltd. (AHM) placed on the record physical samples and other information pertaining to the scope of the investigation, and, on November 16, 2011, a public viewing of the physical samples was held at the Department. On December 15, 2011, the Department placed on the record of this investigation the preliminary determinations in the corresponding antidumping

duty (AD) investigations of galvanized wire from the PRC and Mexico³ in which scope comments filed prior to the preliminary countervailing duty (CVD) determination were addressed. When placing these preliminary AD determinations on the record, we requested that parties submit any comments on scope issues when they filed their case briefs.⁴

On January 9, 2012, the GOC requested that the Department terminate this investigation based on the U.S. Court of Appeals for the Federal Circuit December 19, 2011 ruling in GPX International Tire Corp. v. United States.⁵ On January 13, 2012, Petitioners filed rebuttal comments in response to the GOC's request for termination.

The Department issued a post-preliminary analysis memorandum regarding three programs on January 17, 2012.⁶ Interested parties submitted case briefs on January 25 and 31, 2012, and rebuttal briefs on February 6, 2012. On March 1, 2012, the Department requested all parties in all three galvanized wire investigations that filed scope comments in their case and rebuttal briefs to ensure their comments were placed on the records of all three investigations, and all parties were provided an opportunity to comment on these scope comments. No additional comments on scope issues were submitted.

Scope Comments

As referenced in the "Case History" section above, the Department placed the preliminary determinations of the companion galvanized wire AD investigations from Mexico and the PRC on the record of this investigation. In those preliminary determinations, the

³ See Galvanized Steel Wire From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 76 FR 68407 (November 4, 2011); see also Galvanized Steel Wire From Mexico: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 76 FR 68422 (November 4, 2011).

⁴ See Memorandum to File "Decisions Regarding Scope Comments from Investigations of Galvanized Steel Wire from the PRC and Mexico," dated December 15, 2011.

⁵ See GPX Int'l Tires Corp. v. United States, 666 F.3d 732 (Fed. Cir. 2011).

⁶ See Memorandum to Paul Piquado, Assistant Secretary for Import Administration from Barbara E. Tillman, Director, AD/CVD Operations, Office 6, through Christian Marsh Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations "Countervailing Duty Investigation on Galvanized Steel Wire from the People's Republic of China: Post-Preliminary Analysis Memorandum," dated January 17, 2012.

Department found that galvanized wire with a diameter less than one millimeter was subject to the scope of the investigation. We invited parties to comment on this issue. No additional comments were made on this issue. Thus, the Department continues to find, specifically, that galvanized wire with a diameter less than one millimeter but equal to or greater than 0.5842 millimeters is covered by the scope.

Also, as noted in the “Case History” section above, all scope-related comments submitted by parties in all three investigations in their case and rebuttal briefs are on the record of all three investigations. Petitioners and AHM provided comments on the scope and merchandise that is to be covered under the scope. Based on our analysis of these comments, the Department continues to find that hobby wire, which is galvanized steel wire, in lengths of more than 15 feet, is properly included in the scope of this investigation.⁷ Further, certain parties in the companion AD investigation involving Mexico provided comments on the scope and merchandise that is to be covered under the scope. Based on our analysis of these comments, the Department has clarified the scope language to include not only circular cross section material, but also out-of-round material that meets the circular tolerances. In addition, the Department has included an additional HTSUS subheading as part of the scope description.⁸

Scope of Investigation

The merchandise covered by this investigation is galvanized steel wire. See Appendix I for a complete description of the scope of this investigation.

⁷ AMH’s and Petitioners comments on the scope of the investigation are fully addressed in Galvanized Steel Wire from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and accompanying Issues and Decision Memorandum at Comment 3, issued concurrently with this final determination.

⁸These comments are fully addressed in Notice of Final Determination of Sales at Less Than Fair Value: Galvanized Steel Wire from Mexico and accompanying Issues and Decision Memorandum at Comments 3 and 4, issued concurrently with this final determination.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in Memorandum to Paul Piquado, Assistant Secretary for Import Administration, Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Galvanized Steel Wire from the People's Republic of China (Decision Memorandum), which is hereby adopted by this notice. A list of the subsidy programs and the issues that parties raised and to which we responded in the Decision Memorandum is attached to this notice as Appendix II. The Decision Memorandum is a public document, which is on file electronically via IA ACCESS. In addition, a complete version of the Decision Memorandum is also accessible on the Web at <http://ia.ita.doc.gov/frn/>. The signed Decision Memorandum and the electronic versions of the Decision Memorandum are identical in content.

Use of Facts Otherwise Available, Including Adverse Inferences

For purposes of this final determination, we have continued to rely on facts available and have continued to apply adverse inferences in accordance with sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act) with regard to: (1) the CVD rate to be applied to the non-cooperative mandatory company respondent, Hualing; (2) whether the wire rod and zinc input producers at issue are government authorities that provide wire rod and zinc for less than adequate remuneration (LTAR); and, (3) the GOC's provision of electricity for LTAR. In addition, for the purposes of this final determination, we are also applying adverse facts available (AFA) to (1) determine the CVD rate to be applied to the non-cooperating mandatory respondents the Huayuan Companies and M&M, and (2) determine that the Zhabei District "Save Energy Reduce Emission Team" award is specific pursuant sections 776(a) and (b) of the

Act. A full discussion of our decision to apply AFA is presented in the Decision Memorandum under the section “Use of Facts Otherwise Available and Adverse Inferences.”

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated a rate for each individually investigated producer/exporter of the subject merchandise. Section 705(c)(5)(A)(i) of the Act states that for companies not investigated, we will determine an “all-others” rate equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and de minimis countervailable subsidy rates, and any rates determined entirely under section 776 of the Act.

In this investigation, the only rate not based entirely on AFA is the rate calculated for the the Bao Zhang Companies. Consequently, the rate calculated for the Bao Zhang Companies is also assigned as the “all-others” rate. For those non-cooperative companies that did not fully participate in this investigation, we have determined rates based solely on AFA, in accordance with sections 776(a) and (b) of the Act.⁹ Therefore, we determine the total estimated net countervailable subsidy rates to be:

Company	<u>Ad Valorem</u> Net Subsidy Rate
M&M Industries Co. Ltd.	223.27 percent
Shandong Hualing Hardware and Tool Co., Ltd.	223.27 percent
Shanghai Bao Zhang Industry Co. Ltd., Anhui Bao Zhang Metal Products Co., Ltd., and Shanghai Li Chao Industry Co., Ltd. (collectively the Bao Zhang Companies)	19.06 percent
Tianjin Huayuan Metal Wire Products Co., Ltd., Tianjin Tianxin Metal Products Co., Ltd., and Tianjin Mei Jia Hua Trade Co., Ltd. (collectively, the Huayuan Companies)	223.27 percent
All Others Rate	19.06 percent

⁹ See “Non-Cooperative Companies” in the “Use of Facts Otherwise Available and Adverse Inferences” section of the Decision Memorandum.

As a result of our Preliminary Determination and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from the PRC which were entered or withdrawn from warehouse, for consumption on or after September 6, 2011, the date of the publication of the Preliminary Determination in the Federal Register. In accordance with section 703(d) of the Act, we later issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after January 4, 2012, but to continue the suspension of liquidation of all entries from September 6, 2011, through January 3, 2012.

We will issue a CVD order and reinstate the suspension of liquidation under section 706(a) of the Act if the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, and will require a cash deposit of estimated CVDs for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

____March 19, 2012_____
Date

APPENDIX I

Scope of Investigation

The scope of this investigation covers galvanized steel wire which is a cold-drawn carbon quality steel product in coils, of circular or approximately circular, solid cross section with any actual diameter of 0.5842 mm (0.0230 inch) or more, plated or coated with zinc (whether by hot-dipping or electroplating).

Steel products to be included in the scope of this investigation, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is two percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 1.50 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.02 percent of boron, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.41 percent of titanium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

Specifically excluded from the scope of this investigation is galvanized steel wire in coils of 15 feet or less which is pre-packed in individual retail packages. The products subject to this investigation are currently classified in subheadings 7217.20.30, 7217.20.45, or 7217.90.10 of the HTSUS which cover galvanized wire of all diameters and all carbon content. Galvanized

wire is reported under statistical reporting numbers 7217.20.3000, 7217.20.4510, 7217.20.4520, 7217.20.4530, 7217.20.4540, 7217.20.4550, 7217.20.4560, 7217.20.4570, 7217.20.4580, and 7217.90.1000. These products may also enter under HTSUS subheadings 7229.20.0015, 7229.20.0090, 7229.90.5008, 7229.90.5016, 7229.90.5031, and 7229.90.5051. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise is dispositive.

APPENDIX II

Decision Memorandum

I. Summary

II. Subsidy Valuation Information

A. Period of Investigation

B. Attribution of Subsidies

C. Allocation Period

D. Discount Rates for Allocating Non-Recurring Subsidies

III. Use of Facts Otherwise Available and Adverse Inferences

Non-Cooperative Companies

Input Producers - Government Authorities under Provision of Wire Rod and Zinc for Less Than Adequate Remuneration

GOC - Provision of Electricity for Less than Adequate Remuneration

GOC – Specificity of Zhabei District “Save Energy Reduce Emission Team” Award Program

IV. Analysis of Programs

A. Programs Determined To Be Countervailable

1. Provision of Wire Rod for Less than Adequate Remuneration
2. Provision of Zinc for Less Than Adequate Remuneration
3. Provision of Electricity for Less Than Adequate Remuneration
4. Export Grants from Local Governments
5. Zhabei District “Save Energy Reduce Emission Team” Award Program

B. Program Determined Not to Confer a Benefit During the POI

Export Subsidies Characterized as “VAT Rebates”

C. Program For Which the Benefit Has No Impact on the Subsidy Rate

Exemption from City Construction Tax and Education Tax for Foreign Invested Enterprises

D. Programs Determined To Be Not Used

1. Policy Loans to the Galvanized Wire Industry
2. Preferential Loans for Key Projects and Technologies
3. Preferential Loans and Directed Credit

4. Preferential Lending to Galvanized Wire Producers and Exporters Classified as “Honorable Enterprises”
5. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
6. Provision of Land Use Rights for LTAR within the Jinzhou District within the City of Dalian
7. Provision of Land Use Rights for LTAR to Enterprises within the Zhaoqing High-Tech Industry Development Zone in Guangdong Province
8. Provision of Land Use Rights for LTAR to Enterprises within the South Sanshui Science and Technology Industrial Park of Foshan City
9. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment
10. Income Tax Exemption for Investment in Domestic Technological Renovation
11. Accelerated Depreciation for Enterprises Located in the Northeast Region
12. Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China
13. Income Tax Exemption for Investors in Designated Geographical Regions within Liaoning Province
14. VAT Deduction on Fixed Assets
15. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
16. Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax
17. “Five Points, One Line” Program of Liaoning Province
18. Provincial Export Interest Subsidies
19. State Key Technology Project Fund
20. Subsidies for Development of Famous Export Brands and China World Top Brands
21. Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands
22. Zhejiang Province Program to Rebate Antidumping Legal Fees
23. Technology to Improve Trade Research and Development Fund of Jiangsu Province
24. Outstanding Growth Private Enterprise and Small and Medium-Sized Enterprises Development in Jiangyin Fund of Jiangyin City
25. Grants for Programs Under the 2007 Science and Technology Development Plan in Shandong Province
26. Special Funds for Encouraging Foreign Economic and Trade Development and for Drawing Significant Foreign Investment Projects in Shandong Province
27. “Two Free, Three Half” Tax Exemptions for “Productive” FIEs
28. Income Tax Exemption Program for Export-Oriented FIEs
29. Local Income Tax Exemption and Reduction Programs for “Productive” FIEs
30. Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises
31. Income Tax Subsidies for FIEs Based on Geographic Location
32. VAT Refunds for FIEs Purchasing Domestically-Produced Equipment
33. Income Tax Credits for FIEs Purchasing Domestically-Produced Equipment

V. Analysis of Comments

General Issues

- Comment 1: Whether the Investigation Should Be Terminated Based on the GPX III Ruling**
- Comment 2: Application of CVD Law to the PRC**
- Comment 3: Whether Application of the CVD Law to NMEs Violates the Administrative Procedures Act (APA)**
- Comment 4: Double Remedies**

Case-Specific Issues

- Comment 5: Whether There is a Basis for Countervailing Inputs Purchased from Input Suppliers**
- Comment 6: Whether the Department Improperly Rejected the GOC's September 15, 2011, Submission and Whether the Application of AFA is Warranted**
- Comment 7: Whether the Department Improperly Rejected the Bao Zhang Companies' September 26, 2011 Submission**
- Comment 8: Whether the Department Should Revise Its Benchmark for Wire Rod**
- Comment 9: Whether the Department Should Apply AFA in Selecting the Electricity Benchmark**
- Comment 10: Whether the Bao Zhang Companies' Additional Electricity Charges Should Be Included in the Final Determination**
- Comment 11: Whether the Department Should Apply the Same Electricity Benchmark to both ABZ and SBZ**
- Comment 12: Application of AFA to the Huayuan Companies and M&M**

VI. Recommendation